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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/734,348
Filing Date: December 12, 2003
Appellant(s): BANATWALA ET AL.

Steven M. Greenberg
For Appellant

SUPPLEMENTAL EXAMINER'S ANSWER

This is in response to **the REPLY BRIEF filed 8/5/08** in response to Examiner's Answer mailed 6/5/08.

Response to Argument

In the reply brief, appellant acknowledged the followings:

a. **Appellants agree with the examiner** that the management of a common lifecycle means that when the NCS is instantiated the business components within the provisioned instance are also instantiated and likewise, the NCS is removed, the business component is also removed, etc., e.g. reply brief, pg. 2.

b. **Appellants agree that Moser teaches the creation of a collaboration area from a template with preset views**, e.g. reply brief, pg. 2.

And, in the reply brief, appellant argues in substance that:

c. "Examiner deviates from Appellants, however, when Examiner asserts that Moser teaches the instantiation of an NCS co-extensive with the instantiation of the business components within the provisioned instance, and the removal of the business components co-extensive with the NCS. **Specifically, Examiner refers only to the "close" control of a collaboration area shown in Figure 6 of Moser for the teaching of "managing a common lifecycle for each of the provisioned instance of the named collaborative space and the business process components within the provisioned instance of the named collaborative space" as if the presence of the window of Figure 6 of Moser teaches instantiation and as if the close control when activated results in the removal of the collaboration area. In this regard, Examiner states,**

> Furthermore, **the functionality associated with the box with sign X (hereinafter X)** on the top right hand corner of window 180 is well known in the art. That is, it closes and/or removes the window, in this case, it closes window 180. When X is selected and/or clicked, the window 180 will be closed and/or removed, as well as the windows within the window 180, **thus** managing the common lifecycle for each provisioned instance of a NCS and the business components within the provisioned instance of the NCS, at least in light of appellant's specification as set forth above.
>
> Thus, Examiner has construed the term "instantiation" with the display of a window and the term "removal" with the closing of a window. Yet, the term "instantiation" is a term well-known in the computing art that is not synonymous with displaying a window.

> A simple "Google" search of the term "instantiation" will reveal the ordinarily understood meaning of the term "instantiation". For example, Whatis.com defines instantiation as,
>
> In programming, **instantiation is the creation of a real instance or particular realization of an abstraction or template such as a class of objects or a computer process.** To instantiate is to create such an instance by, for example, defining one particular variation of object within a class, giving it a name, and locating it in some physical place…"

The following is noted in the appellant's allegation above:

First, Appellant alleges that "Examiner refers only to the close control of a collaboration area shown in fig. 6 for the teaching of the management of the common lifecycle", and, on the other hand, appellant alleges that "Thus, Examiner has construed the term "instantiation" with the display of a window and the term "removal" with the closing of a window. Yet, the term "instantiation" is a term well-known in the computing art that is not synonymous with displaying a window".

Although it was clear that Examiner was referring to the creation of the collaboration area from a single template with preset views, e.g. examiner's answer, pg. 9-10, as managing a common lifecycle since creation of collaboration area also creates business objects and removal of the collaboration are also removes the business objects, the examiner re-states that the creation of a collaboration area from a template with preset views is equivalent to instantiating business components instances, i.e. preset views, when the NCS is instantiated.

For example: Appellant cites a simple Google search of the term instantiation being defined as "**creation of a real instance** or particular realization **of** an abstraction or **template such as** a class of objects or **a computer process**".

In view of the definition provided by the appellant, it is clear that Moser's creation of collaboration area with preset views from a template does manage the common lifecycle.

Furthermore, Moser discloses:

[0026] Some examples of views that may be made available to a user having a particular role are shown in FIG. 1. These views may be moved and resized, and may otherwise perform like independent windows. Generally, however, views do not have as many navigation tools and other visual overhead as would be presented in a window. Also, a view may be joined onto a page with other views, so that the views move together with the window in which the page is being displayed. **For example, view 38 might be configured to show various news headlines in the company's industry so that the user can keep up with relevant, current events. The view 38 may be represented generically in code,** and the user's portal may supply particular information relevant to the user so as to create a personalized instantiation of the view (such as a local weather display).

[0031] **The template 60 is defined by a content workset 62, a template workset 64, and a template definition 65. The content workset 62 defines what content is available in the collaboration area. For example, the content workset 62 may be arranged in a hierarchy of pages and views**, where the pages represent a page that can be accessed by at least some participants in the collaboration area, and the views represent what those participants will see in each area. The template workset 64 defines roles of users that have access to the area, and can take a variety of forms. Each role may be represented as a folder under the workset. The roles may be linked to the content workset 62, so that, for instance, a "project lead" role may be provided full access to all of the content in the content workset. A template definition 65 comprises a description of a particular template, a set of properties for rooms within the area (e.g., room name and whether users are notified by e-mail when they are invited to the area), and a rule set that defines how a particular area is created by mapping the room properties on the properties of the views that make up each area. **The content workset 62, template workset 64, and template definition 65, in their general forms, combine to form a template structure 61.** In one form, the content workset 62 may be a fundamental element of a portal system through which the collaboration area is accessed.

In other words, template defines one or more type of view(s) to instantiate, and when the collaboration area such as in figure 6 is instantiated, i.e. created, these views are also instantiated, i.e. created, thus, managing a common lifecycle for each of the provisioned instance of the named collaborative space and the business process components within the provisioned instance of the named collaborative space.

Additionally, appellant alleges that "Likewise, Merriam-Webster's Dictionary defines the verb "instantiate" to mean "to represent (an abstraction) by a concrete instance". Thus, displaying a window does not necessarily result from an "instantiation" nor does the removal of an instance necessarily flow from the closing of a window **as it is well-understood in the art of object-oriented programming, e.g. reply brief, pg. 4.**

In response, Examiner agrees that displaying a window does not necessarily result from an instantiation nor does the removal of an instance necessarily flow from the closing of a window, however, in this case, i.e. in Moser, displaying a collaboration area, in fact, results from instantiation, i.e. created, as admitted and acknowledged by the appellant, e.g. see point [b] above.

Moreover, the appellant specification discloses

> [0020] Business component instances provided as part of business process 16 are managed by a specific NCS 10 instance. **Although not required, business component instances can share the same life cycle as its corresponding NCS instance. In other words when an NCS 10 is instantiated, a business component instance is also instantiated. When an NCS instance is removed, the business component instance is also removed…**

Apart from this, there is no teaching, disclosure and/or suggestion that shows that the management of a common lifecycle, instantiation and/or removal is in light of object-oriented programming and the definition upon which the appellant relies should be given weight in claim construction.

In any event, Moser further discloses:

> [0059] **These computer programs (also known as programs, software, software applications or code) include machine instructions for a programmable processor, and can be implemented in a high-level procedural and/or object-oriented programming language**, and/or in assembly/machine language. As used herein, the term "machine-readable medium" refers to any computer program product, apparatus and/or device (e.g., magnetic discs, optical disks, memory, Programmable Logic Devices (PLDs)) used to provide machine instructions and/or data to a programmable processor, including a machine-readable medium that receives machine instructions as a machine-readable signal. The term "machine-readable signal" refers to any signal used to provide machine instructions and/or data to a programmable processor.

In other words, instantiation and other components are in view of object-oriented programming language. ". Thus, displaying a window, i.e. collaboration area does result from "instantiation" **as it is well-understood in the art of object-oriented programming.**

It should be noted that the management of common lifecycle is not defined to include both the instantiation and removal.

In any event, Examiner has shown that Moser does disclose instantiation and removal as in appellant's specification [0020].

d. Appellant further alleges that Examiner provides no evidentiary foundation for the assertion that Moser teaches the presence of multiple instances of a named collaborative space for which a common lifecycle can be managed for the business process components disposed therein as expressly recited in claims 1 and 8, e.g. reply brief, pg. 4.

Independent claim 1 recites:

A collaborative computing method for the establishment **of a named collaborative space**, the method comprising:

providing a templatable and provisionable named collaborative space to serve as a basis for establishing instances of named collaborative spaces, the templatable and provisionable named collaborative space defining a work place within the collaborative computing environment and configured to manage a **plurality of business process components disposed within an instance of the named space in a one-to-many relationship;**

provisioning an instance of the templatable and provisionable named collaborative space; identifying a membership set for the named collaborative space, the membership set including one or more members;

providing a plurality of business process component instances for management within the provisioned instance of the named collaborative space; and,

managing a common lifecycle for each of the provisioned instance of the named collaborative space and the business process components within the provisioned instance of the named collaborative space.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e. presence of multiple instances of a named collaborative space for which a common lifecycle can be managed for the business process components) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In any event, Moser teaches creating one or more collaboration areas for which a common lifecycle can be managed as set forth above, e.g. pg. 1 [0004-0006]: receiving first request and second request, and then managing the lifecycle as shown above.

e. At last, appellant alleges that examiner's claim construction of one-to-many relationship appears to ignore the plain meaning...reply brief, pg. 5.

It appears that appellant is ignoring its own disclosure and/or teachings by relying on plain meaning of the term "one-to-many".

As shown in the examiner's answer, e.g. pg. 16-17, in Moses, when the NCS is created, the business views such as team view, news view, etc., are all created in the NCS in that there is only one NCS area, such as item 180, for each of the views such as item #182, 184, 186, as shown in figure 6 and the following section.

> [0054] **FIG. 6 shows a display 180 of a collaboration area that has been initially created from a simple template,** such as by way of the form in FIG. 5. Participant view 182 provides the area's owner with the ability to add new participants to the collaboration area and assign those participants to particular titles that may correspond to underlying roles that control the user's subsequent access to the collaboration area. As shown, the owner (one Smith) is currently the only participant in the collaboration area, and is assigned as the Team Leader. Two other assignments--Team Member and Project Assistant--are also readily available under the template that created the area. **News view 186** can be a standard portal news feed having parameters assigned to it so as to cause news relevant to the project being carried out in the collaboration area to be displayed. **Collaboration area operation view 184** shows several components of the collaboration area that allow the team members to collaborate on a project. For instance, team members

may assign tasks to each other. In addition, the owner or other collaboration area participants can add documents to the collaboration area and organize them in a folder hierarchy so that the team may review, annotate, comment on, or edit the documents.

In other words, in one created NCS area there are many business objects such as views.

For the at least these reasons, the REJECTION should be sustained.

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